

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Bigelow Post Office
Bigelow, Arkansas

Docket No. A2011-29

PUBLIC REPRESENTATIVE COMMENTS
(September 2, 2011)

On July 26, 2011, the Commission received an appeal letter from Mayor Brad Akridge objecting to the closing of the post office in Bigelow, Arkansas. The letter was postmarked July 18, 2011.¹ On July 27, 2011, the Commission issued Order No. 772 accepting the appeal, directing the Postal Service to file the administrative record by August 10, 2011, establishing a procedural schedule, and naming the undersigned Public Representative.² On August 10, 2011, the Postal Service filed the administrative record. On August 12, 2011, the Commission received letters from Debra Morse and Eloise Morse objecting to the closing of the Bigelow post office. The Postal Service states that it will provide service to Bigelow customers via Community Post Office and rural delivery emanating from the Conway, Arkansas, post office.³

In their letters, petitioner and interveners make the following assertions:

- The Postal Service has miscalculated the economic savings attributable to the closing of the Bigelow post office.
- The closing will impose a hardship on elderly and disabled customers.
- The Bigelow community will lose its identity.
- Customers will bear an undue financial burden traveling to Conway to deposit mail.
- The post office is being closed in retaliation for the landlord's attempt to raise the rent.

¹ Notice of Filing under 39 U.S.C. § 404(d), July 26, 2011.

² Notice and Order Accepting Appeal and Establishing Procedural Schedule, July 27, 2011.

³ Administrative Record (AR), item 47, at 2.

Legal considerations. Under 39 U.S.C. section 404(d)(2)(A), in making a determination on whether to close a post office, the Postal Service must consider the following factors: the effect on the community; whether a maximum degree of effective and regular postal service will be provided; the effect on postal employees; and the economic savings to the Postal Service. The issues raised by Mayor Akridge and the Morses fall under the categories of effect on the community and economic savings. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions of the Postal Service that it finds to be: (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (B) without observance of procedure required by law; or (C) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

Effect on the community. The Postal Service intends to serve Bigelow via CPO⁴ and rural carrier.⁵ Petitioner asserts that seniors and the disabled will have a hard time getting to Conway to conduct postal business. However, the Postal Service states that the rural carrier can provide virtually all the services that a post office can provide. The rural carrier can also deliver to the door in cases of extreme hardship. AR, item 47, at 3.

Petitioner also asserts that Bigelow will lose its identity if the post office closes. The Postal Service responds that it “is helping to preserve community identity by continuing the use of the suspended Post Office name and ZIP Code in addresses and in the National Five-Digit ZIP Code and Post Office Directory.” AR, item 47, at 2. However, in responses to customer concerns, the Postal Service states that a change in ZIP Code is required. AR, item 33, at 2. This inconsistency needs to be reconciled.

Economic savings. Petitioner alleges that the savings resulting from the closing of the Bigelow post office have not been calculated correctly. According to the petitioner,

⁴ Administrative Record (AR), item 47, at 3.

⁵ *Id.* at 2.

The cost of replacement service is not high enough to pay for additional salary and mileage to current carriers and also to hire an additional carrier as mentioned at the public meetings with the Postal Service.⁶

The administrative record contains conflicting estimates of the added cost for rural delivery. The Post Office Survey Sheet shows zero boxes and 24 miles added to the rural routes for a cost of \$18,151. AR, item 15a. However, the Rural Route Cost Analysis Form shows no added cost for the expanded rural routes. AR, item 17a. There are also handwritten calculations showing an added cost for rural delivery of \$11,786.41. AR, item 17B. The Proposal Checklist uses the \$18,151 as the added cost for rural delivery, but there are no calculations deriving that number. AR, item 29, at 2.

Retaliation against the landlord. Petitioner asserts that the Postal Service closed the Bigelow office because rent negotiations had become heated.⁷ There is nothing in the administrative record to support this assertion because the Postal Service did not include in the record minutes of the community meeting. Rather, the Postal Service included a list of customer concerns and responses thereto. AR, item 25. It is not possible to know whether the list is complete. If, in fact, the Postal Service chose to close the Bigelow post office to punish the landlord, it would be an arbitrary decision.

Conclusion. There are several inconsistencies and omissions in the administrative record. The Commission should remand the final determination with instructions to reconcile conflicting statements and to fill gaps in the record.

Respectfully submitted,

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⁶ Appeal Letter, posted on line July 26, 2011, at 1.

⁷ *Id.* at 2.

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